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Washington, D.C. 20554

Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

CS Docket No. 97-55

Industry Proposal for Rating)
Video Programming)

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Reply Comments of
CENTER FOR MEDIA EDUCATION
AMERICAN ACADEMY OF CHILD AND ADOLESCENT PSYCHIATRY
AMERICAN PSYCHOLOGICAL ASSOCIATION
CENTER FOR MEDIA LITERACY
CHILDREN'S DEFENSE FUND
CULTURAL ENVIRONMENT MOVEMENT
INSTITUTE FOR PUBLIC AFFAIRS OF THE UNION OF
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NATIONAL ASSOCIATION FOR FAMILY AND COMMUNITY EDUCATION
NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS
NATIONAL COALITION ON TELEVISION VIOLENCE
NATIONAL COUNCIL OF LA RAZA
NATIONAL EDUCATION ASSOCIATION
NATIONAL INSTITUTE ON MEDIA AND THE FAMILY
NATIONAL PARENT TEACHER ASSOCIATION
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TEACHERS RESISTING UNHEALTHY CHILDREN'S ENTERTAINMENT

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SUMMARY

Supporters of the industry system assert that a lack of complaints indicates that television viewers like the industry system. Yet, virtually the entire docket, representing a diverse group of individuals and organizations, including numerous parents, opposes the industry's age-based system and advocates a content-descriptive system. Also, the hundreds of letters that parents have written to the Commission criticizing the industry system demonstrate that the efforts of national organizations to modify the industry system accurately represent the views of parents across the country.

Such parental support for a content-descriptive system is not surprising. Contrary to the suggestion of industry system proponents, a content-descriptive system provides a sophisticated and high quality ratings mechanism that adapts well to modern television. Not only is a content-descriptive system more sophisticated than the industry system, but also it is just as easy, if not easier, for parents to understand. Unlike the industry system, a content-descriptive system captures the variation in programming content and conveys contextual differences between programs by indicating content type and intensity. Moreover, the industry system is modeled after the MPAA system, which is unsatisfactory to parents and is not adaptable to modern television. Because the MPAA system was developed thirty years ago for an entirely different medium, its age-based "red flags" fail to empower today's parents to make effective television programming choices for their children.

By contrast, content-descriptive labels empower parents to make these choices because they provide parents with more information. Some industry system supporters imply in their Comments that a content-descriptive system would lead to censorship. In fact, the opposite is true. Rather than suppressing information, a content-descriptive system would give parents more information so that

they can make meaningful choices regarding the types of programming that they want themselves and their children to view.

Finally, proponents of the industry system wishfully, yet mistakenly, claim that mere industry action in developing a ratings system satisfies the legal requirements of the V-chip provision. The provision expressly states that, in order to obviate the need for an advisory committee, the FCC must find that the industry has voluntarily established an "acceptable" ratings system. The legislative history clearly shows that an "acceptable" system must specifically identify violent content and provide parents with the information necessary for them to make programming choices for their children. If the industry does not voluntarily alter its existing system to satisfy these criteria, the FCC has no choice but to establish an advisory committee.

TABLE OF CONTENTS

| | | |
|-------------|--|-----------|
| I. | A BROAD AND DIVERSE CONSTITUENCY STRONGLY OPPOSES THE INDUSTRY'S AGE-BASED SYSTEM AND INSTEAD FAVORS A CONTENT-DESCRIPTIVE SYSTEM. | 2 |
| A. | Virtually the entire docket opposes the industry's age-based system and instead advocates a content-descriptive system. | 3 |
| B. | The national efforts to modify the industry system represent the views of parents across the country. | 5 |
| II. | A CONTENT-DESCRIPTIVE SYSTEM PROVIDES A SOPHISTICATED AND QUALITY RATINGS SYSTEM THAT, UNLIKE THE RATINGS SYSTEM FOR MOVIES, ADAPTS WELL TO MODERN TELEVISION. | 7 |
| A. | A content-descriptive system is more sophisticated than the industry's age-based system, but it is just as easy, if not easier, for parents to understand. | 7 |
| B. | Unlike the industry system, a content-descriptive system conveys contextual differences between programs by indicating content type and intensity. | 10 |
| C. | Not only is the industry system modeled after the movies ratings system that parents find unsatisfactory, but also it is not adaptable to modern television. | 11 |
| III. | THE PURPOSE OF CONTENT DESCRIPTIVE LABELING IS NOT TO SUPPRESS PARTICULAR TYPES OF PROGRAMMING, BUT TO ALLOW THE PUBLIC TO MAKE MEANINGFUL CHOICES REGARDING THE TYPES OF PROGRAMMING THAT THEY WANT THEMSELVES AND THEIR CHILDREN TO VIEW. | 12 |
| IV. | MERE INDUSTRY ACTION IS INSUFFICIENT TO SATISFY THE LEGAL REQUIREMENTS OF THE V-CHIP PROVISION. | 14 |
| | CONCLUSION | 16 |

INTRODUCTION

Commenters, the Center for Media Education, American Academy of Child and Adolescent Psychiatry, American Psychological Association, Center for Media Literacy, Children's Defense Fund, Cultural Environment Movement, Institute for Public Affairs of the Union of Orthodox Jewish Congregations of America, Media Center of the Judge Baker's Children's Center, National Alliance for Non-Violent Programming, National Association for Family and Community Education, National Association of Elementary School Principals, National Association of School Psychologists, National Coalition on Television Violence, National Council of La Raza, National Education Association, National Institute on Media and the Family, National Parent Teacher Association, Public Media Center, and Teachers Resisting Unhealthy Children's Entertainment ("CME *et al.*") hereby submit Reply Comments regarding the Industry Proposal for Rating Video Programming.

In their original Comments, CME *et al.* argued that the industry ratings system is "unacceptable" because it does not empower parents as Congress intended.¹ Specifically, the industry system fails to empower parents to identify which programs contain violence and fails to provide parents with the descriptive information necessary to make effective programming choices for their children.² CME *et al.* concluded that a content-descriptive ratings system is necessary to effectuate Congressional intent.³

¹ See generally CME *et al.*, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 8, 1997 [hereinafter *Comments of CME et al.*].

² *Id.* at 6-14.

³ *Id.* at 14-21.

The overwhelming majority of Comments filed with the Federal Communications Commission ("FCC") to date oppose the industry proposal.⁴ In this filing, CME *et al.* respond to those few Comments and letters that support the industry proposal, i.e., Comments submitted by the Writer's Guild of America, East ("WGAE") and a handful of virtually identical letters submitted by television station presidents and general managers ("the stations"). CME *et al.* show that, contrary to the stations' claim, a broad and diverse constituency strongly opposes the industry system. CME *et al.* also refute WGAE's implication that a content-descriptive system would lack sophistication and quality. CME *et al.* then argue that, contrary to WGAE's suggestion, the implementation of revised ratings system would lead to the reverse of censorship. Finally, CME *et al.* refute the implication that the industry's mere development of a ratings system is tantamount to satisfying the legal requirements of the V-chip provision.

I. A BROAD AND DIVERSE CONSTITUENCY STRONGLY OPPOSES THE INDUSTRY'S AGE-BASED SYSTEM AND INSTEAD FAVORS A CONTENT-DESCRIPTIVE SYSTEM.

The stations claim to have received few complaints about the industry ratings system.⁵ Based on this reportedly low complaint rate, the stations erroneously conclude that viewers approve

⁴ COMM. DAILY, April 28, 1997 ("[A] tabulation of comments to [the] FCC on TV ratings found 822 were filed against [the] industry system, with [only] 26 in favor [of the industry system (23 of those representing network affiliates).").

⁵ See, e.g., Letter from Jack Moffitt, Vice President/General Manager, WBFX-TV (Greensboro, NC) to the FCC (April 3, 1997) ("At our station we have received no correspondence or phone calls either complaining or complimenting the new rating system.").

of the industry system.⁶ However, until the V-chip is in television sets and parents are forced to use the unworkable age-based system, few parents are likely to complain to their local television stations. While parents currently may not be complaining to their local stations in large numbers now, 822 Comments and letters have been filed with the FCC. These Comments and letters demonstrate that a broad and diverse sector of the viewing public finds the industry ratings inadequate.⁷

A. Virtually the entire docket opposes the industry's age-based system and instead advocates a content-descriptive system.

The coalition of groups filing as CME *et al.* alone represent a highly diverse and large group of individuals, including a large number of parents. For example, one of the many groups working on behalf of parents, the National Parent Teacher Association ("National PTA"), represents over 6.5 million parents, teachers, and child advocates. The National Education Association, represents 52 state-level affiliates, 13,250 local affiliates, 500 higher education affiliates, and more than 2.2 million elementary and secondary teachers, higher education faculty, educational support personnel, school administrators, retired educators, and college students. The American Psychological Association has more than 151,000 members and affiliates. The National Alliance for Non-Violent Programming, represents 2 million people in more than 3,000 local chapters. These four organizations constitute only one-fifth of the organizations in CME *et al.*'s coalition. Thus, CME *et*

⁶ See, e.g., Letter from Tom Griesdorn, General Manager, WOIO & WUAB (Cleveland, OH), to the FCC (April 4, 1997) (inferring that the lack of viewer response about the industry system means that parents find it "useful and easy to use").

⁷ COMM. DAILY, *supra* note 4.

al. represent the views of millions of members of the viewing public who oppose the industry ratings system and instead favor a content-descriptive system.

Numerous other Commenters with similarly broad and diverse constituencies have also filed Comments with the FCC objecting to the industry ratings system. These additional Commenters include medical and health experts,⁸ media and child research organizations,⁹ religious organizations,¹⁰ technology companies,¹¹ some members of the broadcasting industry,¹² and

⁸ See, e.g., American Medical Association, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 8, 1997 [hereinafter *AMA Comments*] (representing over 300,000 physicians and medical students); American Academy of Pediatrics, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 4, 1997 [hereinafter *AAP Comments*] (representing over 53,000 pediatricians).

⁹ See, e.g., Mediascope, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 8, 1997 [hereinafter *Mediascope Comments*].

¹⁰ See, e.g., Institute for Public Affairs of the Union of Orthodox Jewish Congregations of America, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 8, 1997 (representing the members of over 1,000 synagogues); Presbyterian Church, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 7, 1997.

¹¹ See, e.g., Para Technologies Inc., Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed Feb. 27, 1997.

¹² See, e.g., Public Broadcasting Service, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 8, 1997.

BET has expressed similar disapproval of the industry ratings by refusing to use them. Esther Iverem, *BET Shuns Program Ratings System*, WASH. POST, Feb. 20, 1997, at B1.

Also, it has been widely reported that Fox Chairman, Rupert Murdoch, may now favor augmenting the industry system with content labels. Jeannine Aversa, *TV Executives Consider Violence Rating Codes; Sex, Language Standards May Be Added to System*, ROCKY MTN. NEWS, Mar. 16, 1997, at 6A; *TV Rating System May Get Some More Letters*, VARIETY, Mar. 14, 1997, at 20E; Jane Hall, *TV Industry Considers Adding Content Labels*, L.A. TIMES, Mar. 12, 1997, at F2.

Members of Congress.¹³ Thus, nearly the entire docket opposes the industry system and supports a content-descriptive system.

B. The national efforts to modify the industry system represent the views of parents across the country.

Without offering any basis for his sweeping generalization, the President/General Manager of one station states, "I believe that the national lobbying efforts currently underway encouraging altering the ratings system does [sic] not represent the views of the general public, but rather the specific agenda of those lobbying groups."¹⁴ However, the abundance of letters from individuals in these groups show that the groups' efforts accurately represent the views of their membership.¹⁵

Moreover, hundreds of parents who are not affiliated with the organizations that submitted formal Comments wrote letters to the FCC criticizing the industry system and expressing their support for a content-descriptive system. For example, a father in St. Peters, Missouri wrote:

I can't state over-state how disappointed I am in these weak, content-free ratings
.... [O]ur family sat down to watch CBS' "Touched By An Angel[,] [which]

¹³ See *infra* text accompanying notes 49-50 (citing Congressional opposition to the industry system and support for a content-descriptive system).

¹⁴ Letter from Patrick J. Mullen, President/General Manager, WXMI (Grand Rapids, MI), to the FCC (April 3, 1997).

¹⁵ For example, numerous parents in the National Association for Family & Community Education ("NAFCE") wrote that the industry system fails to meet their needs; these parents advocated a content-descriptive system. See, e.g., Letter from Carol Eudy (Plumtree, NC) to the FCC (Mar. 4, 1997). Similarly, numerous parents in the National PTA wrote that the "[industry] system does not provide sufficient content information [for them to] make decisions ... for their children[;]" these parents argued for a system that includes "content information about programs such as a V (for violence), S (for sexual content) [and] L (for bad language)." See, e.g., Letter from Sara Buley (Great Falls, MT) to Chairman Reed Hundt and FCC Commissioners (Mar. 11, 1997).

carried the TV-G rating.... [M]y children were exposed to a story about the rape of a young girl. When my six-year-old daughter began asking about the meaning of the word "rape[,]" ... I realized that the current rating system is a cruel joke foisted on parents.... If the program had Content Ratings, ... we'd have been better prepared to make a responsible decision.¹⁶

Similarly, a couple in Nappanee, Indiana wrote:

We are the parents of three children, ages 9, 6 and 3.... The current method of TV program rating does not help us in determining if a program is satisfactory for our children to watch or not. A content-based rating system would not only make it easier to make a choice, but it would help us to have a better understanding of a program and what is in it.¹⁷

Also, a couple in Andover, Maine wrote:

[We] (parents of 3 children) are writing you to vigorously protest the proposed new T.V. ... rating plan.... We want to know exactly the level of *violence, sexual behavior* and *course language* that will be shown on T.V. programs.... [This] is a copy of a letter sent to the Presidents of all of the major networks to register our ... total disapproval [of the industry ratings system]....¹⁸

These letters and hundreds of additional letters and E-mails¹⁹ like them demonstrate that parents across the country oppose the industry system and instead favor a content-descriptive system.

Various studies also support this conclusion. Prior to the introduction of the industry system, roughly 80% of parents preferred a content-descriptive ratings system over an age-based system.²⁰ Moreover, once parents actually had a chance to use the industry system, the percentage

¹⁶ Letter from Jack W. Frosch (St. Peters, MO) to the FCC (Mar. 4, 1997).

¹⁷ Letter from Ronald and Gloria Yoder (Nappanee, IN) to the FCC (Mar. 7, 1997).

¹⁸ Letter from Mr. and Mrs. Silas Sherry (Andover, ME) to the FCC (received Jan. 6, 1997).

¹⁹ See <http://www.fcc.gov/Bureaus/cable/WWW/vchip/csvccom.html> (posting several hundred E-mail messages from parents to the FCC expressing their opposition to the industry system and advocating a content-descriptive system).

²⁰ See *Comments of CME et al.*, *supra* note 1, at 18 n.42 (citing various studies reporting roughly 80% parental preference for a content-descriptive ratings system).

of parents favoring a content-descriptive system *increased*. An overwhelming 94% of parents said that they would use a television ratings system that provides more detailed information on the violence, sex, and language content than the industry system offers.²¹ Furthermore, as mentioned above, if parents are forced to use the industry system with the V-chip technology, more parents will notice the inadequacies of the system and will complain to the FCC and to the television stations.

II. A CONTENT-DESCRIPTIVE SYSTEM PROVIDES A SOPHISTICATED AND QUALITY RATINGS SYSTEM THAT, UNLIKE THE RATINGS SYSTEM FOR MOVIES, ADAPTS WELL TO MODERN TELEVISION.

A. A content-descriptive system is more sophisticated than the industry's age-based system, but it is just as easy, if not easier, for parents to understand.

Contrary to WGAE's assertion, a content-descriptive system does not reflect program content in a "less sophisticated way" than age-based ratings.²² As CME *et al.* argued in its original Comments, the industry system is so rudimentary that over 61% of prime time programs receive the same TV-PG rating.²³ Thus, if the industry system is still in use when the V-chip is implemented, parents will have to choose between permitting their children to watch all TV-PG programming,

²¹ Survey from The National Institute on Media and the Family ("NIMF") (released Feb. 12, 1997). *See also* Survey from the Family Channel (conducted by the Yankelovich Partners) (released Mar. 18, 1997) (70% of parents prefer a content-based system over an age-based system).

See also Comments of CME et al., *supra* note 1, at 19 n.43 (placing the results of industry-funded surveys in their appropriate context).

²² *See* WGAE, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 8, 1997, at 2 [hereinafter *WGAE Comments*].

²³ *Comments of CME et al.*, *supra* note 1, at 12. For further discussion of the TV-PG "black hole," see *id.* at 11-14.

including adult-oriented content, or no TV-PG programming, thereby depriving their children of much family-oriented content.

In contrast, a content-descriptive system captures the variation in programming content by indicating content type and intensity.²⁴ For example, if a program receives the industry's TV-PG rating, the rating merely tells parents that "the program may contain infrequent coarse language, limited violence, [and] some suggestive sexual dialogue and situations."²⁵ However, a content-descriptive rating tells parents that a particular program *actually does* contain "limited violence," but it does not contain "infrequent coarse language" or "suggestive sexual dialogue and situations." By providing this content-specific information, a content-descriptive system more accurately conveys programming content and thus is more sophisticated than the industry's age-based system.²⁶

Nonetheless a content-descriptive system is just as easy, if not easier, for parents to understand. In fact, 88% of parents said that content-descriptive television ratings are easy for them to understand.²⁷ Because content-descriptive ratings give parents more information, they may

²⁴ For further discussion of this point, see *id.* at 14-15.

²⁵ Letter from Jack Valenti, President and Chief Executive Officer, Motion Picture Association of America, *et al.* to William F. Caton, Secretary, Federal Communications Commission (Jan. 17, 1997), at 2 [hereinafter *Industry Proposal*].

²⁶ WGAE also suggests that a content-descriptive system "would ... sacrifice quality for the false security of uniformity." *WGAE Comments*, *supra* note 22, at 2. In fact, it is the industry system that sacrifices quality in this manner by erroneously assuming a single, uniform standard for age-appropriate programming. For further discussion of this point, see *Comments of CME et al.*, *supra* note 1, at 8-9.

²⁷ Survey from NIMF (released Feb. 12, 1997) (reporting parents' reactions after using "Children's Impact Statements," which is the NIMF-developed content-descriptive system). For further discussion of the simplicity of a content-descriptive system, see *Comments of CME et al.*, *supra* note 1, at 16.

actually be easier to understand. For example, the content-descriptive “violent” label is much more clear and straightforward than the age-based virtually all-encompassing “TV-PG” label.

Parents have successfully utilized content-descriptive ratings systems with various other media. For example, parents have used the HBO/Showtime ratings system for over twelve years. This system offers program-specific content information, noting adult themes, vulgar language, and degrees of violence, nudity, and sexual situations.²⁸ Similarly, the video game industry reports content in the form of bar code ratings that indicate the levels of violence, sex, and profane language included in the product.²⁹ Also, the Recreational Software Advisory Council (“RSAC”) has extended these video game ratings to many Internet Web sites.³⁰ The broadcasting industry underestimates the intelligence of American parents when it presumes that a content-descriptive ratings system is beyond their comprehension. Clearly, it is the industry, not parents, that wants an age-based ratings system.

²⁸ The HBO/Showtime system uses the following content-descriptors: AL (Adult Language); GL (Graphic Language); MV (Mild Violence); V (Violence); GV (Graphic Violence); N (Nudity); BN (Brief Nudity); AC (Adult Content); SC (Strong Sexual Content); and RP (Rape). *Id.*

See also AMA Comments, supra note 8, at 4 (citing the HBO/Showtime system as an example of a well-established content-descriptive system); *AAP Comments, supra* note 8, at 4 (same); Children Now, Comments, *Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, filed April 8, 1997, at 5 [hereinafter *Children Now Comments*] (same); Letter from Rep. Edward J. Markey *et al.* to William F. Caton, Secretary, FCC (April 8, 1997) [hereinafter *Letter from Markey et al.*] (same).

²⁹ Dale Kunkel, Ph.D., *Why Content, Not the Age of Viewers, Should Control What Children Watch on TV*, CHRON. OF HIGHER EDUC., Jan. 31, 1997; *see also Mediascope Comments, supra* note 9, at 3 (citing the computer game ratings system as an example of a content-descriptive system).

³⁰ Kunkel, *supra* note 29. RSAC is an independent body composed of research experts, teachers, teenagers, and industry representatives. *Id.*

See also Mediascope Comments, supra note 9, at 3 (citing the Internet ratings system as an example of a content-descriptive system).

B. Unlike the industry system, a content-descriptive system conveys contextual differences between programs by indicating content type and intensity.

WGAE asserts that a content-descriptive system would ignore context, thereby “identifying programs as containing unexplained and uncategorized violence, sex or language.”³¹

However, this argument reflects WGAE’s lack of familiarity with content-descriptive systems. The industry contends that a content-descriptive system would assign the same “S” content-descriptor to an episode of the family program, *Touched By an Angel*, that includes hugging and kissing, as it would assign to the sex-laden movie, *Basic Instinct*.³² This argument is invalid.

A content-descriptive system would not only indicate that a particular program contains sexual content, but also it would indicate the intensity of the sexual content. Accordingly, *Basic Instinct* would receive a rating which clearly conveys that the program actually does contain “explicit sexual content.”³³ In contrast, *Touched By an Angel* would receive a rating which alerts parents that this particular episode of the typically family-oriented program includes “suggestive sexual dialogue and situations.”³⁴

³¹ *WGAE Comments*, *supra* note 22, at 2.

³² See, e.g., *The Television Parental Guidelines System: Hearing Before the Senate Commerce, Science and Transportation Comm.*, 105th Cong., 1st Sess. (Feb. 27, 1997) (testimony of Jack Valenti, President/CEO, MPAA) (“[H]ow is the parent to make a distinction when they see one ‘S’ by *Touched By an Angel* and one ‘S’ by [*Basic Instinct*]?”).

³³ See *Industry Proposal*, *supra* note 25, at 2 (using this language to describe the intensity of sexual content that TV-14 programming may contain).

³⁴ See *id.* (using this language to describe the intensity of sexual content that TV-PG programming may contain).

Thus, contrary to WGAE's claim, a content-descriptive system would not ignore context. Rather, a content-descriptive ratings system would convey programming context more effectively than the industry system by indicating content type and intensity.³⁵

C. Not only is the industry system modeled after the movies ratings system that parents find unsatisfactory, but also it is not adaptable to modern television.

Various stations assert that "the voluntary ratings system developed by the television industry ... builds on the 28 years of familiarity and success [of] the movie rating system."³⁶ Contrary to the assertion of these stations, familiarity with the Motion Picture Association of America ("MPAA") system is not tantamount to the success of, or parental support for, that system. Rather, studies report that over two-thirds of parents are dissatisfied with the MPAA's age-based system and that they want a stronger, more effective ratings system.³⁷

Moreover, the MPAA system is not adaptable to modern television. There is a vast difference between the amount of television programming and movies to be rated; the motion picture panel rates two or three movies a day, whereas today's television industry rates the equivalent of 1,000 movies a day.³⁸ Also, because the typical child views only a few movies per

³⁵ For further discussion of this point, see *Children Now Comments*, *supra* note 28, at 6.

³⁶ See, e.g., Letter from William M. Dunaway, General Manager, KAMR-TV (Amarillo, IN), to the FCC (April 3, 1997).

³⁷ See, e.g., Survey from the Global Strategy Group (performed Aug. 2-8, 1996) (68% of parents want a more effective ratings system for movies).

³⁸ David Kunt, *Industry Releases TV Ratings Plan; Reaction Mixed, FCC to Field Comments*, BNA'S ELEC. INFO. POLICY & L. RPT. (Vol. 2), Jan. 3, 1997, at 8 (statement of Jack Valenti, President/CEO, MPAA).

month, parents have time to investigate the content of a movie before their child views it. Yet, parents usually are not able to do such investigation before their child watches a television program. Accordingly, age-based “red flags,” modeled after a system that was developed thirty years ago for an entirely different medium, do not empower parents to make effective television programming choices for their children. Rather, parents need content-descriptive information to make these decisions.

III. THE PURPOSE OF CONTENT DESCRIPTIVE LABELING IS NOT TO SUPPRESS PARTICULAR TYPES OF PROGRAMMING, BUT TO ALLOW THE PUBLIC TO MAKE MEANINGFUL CHOICES REGARDING THE TYPES OF PROGRAMMING THAT THEY WANT THEMSELVES AND THEIR CHILDREN TO VIEW.

WGAE erroneously suggests that the goal of those seeking a content-descriptive ratings system is censorship.³⁹ According to WGAE, any revision of the existing system would alter the “economics of television” and eventually lead to the suppression of quality adult programming.⁴⁰ WGAE argues that the use of the V-chip with a content-descriptive system will “remove much serious drama and concomitant serious discussion of a host of painful, important and adult issues” from television.⁴¹

³⁹ *WGAE Comments*, *supra* note 22, at 2.

⁴⁰ *Id.* at 3.

⁴¹ *Id.* Moreover, WGAE’s assertion that the addition of the V-chip will cause cultural and artistic harm constitutes a criticism of *any* ratings systems technology. *Id.* The time for debating the V-chip technology has passed.

CME *et al.* are in no way presuming or anticipating that such revisions would lead to censorship. Rather we are advocating the reverse of censorship; CME *et al.* want to provide the viewing public, especially parents, with more information about programming content so that they can use the V-chip technology to effectively convey their programming preferences and prevent their children from viewing inappropriate content. The purpose of the V-chip technology and content descriptive labeling is not to suppress particular types of programming, but rather to allow the public to make meaningful choices regarding the types of programming that they want themselves and their children to view.

Moreover, CME *et al.* agree with WGAE that “we must also protect our capacity for adult discourse and insure the viability of mature art which examines themes which though less than attractive have importance in our society.”⁴² Fortunately, we believe that the implementation of a content-descriptive ratings system with the V-chip technology would achieve this goal. The V-chip technology would allow parents to block programming that is inappropriate for their children, but it would in no way prevent adults from viewing programming they wish to see.

Thus, contrary to WGAE’s suggestion, proponents of a revised ratings system are not seeking to suppress information or to “remove from broadcast any programming which does not meet [our] social views and mores.”⁴³ CME *et al.* do not advocate censorship; we want to increase the amount of information given to parents so that they can make effective programming choices for their children.

⁴² *Id.* at 3-4.

⁴³ *Id.* at 2.

IV. MERE INDUSTRY ACTION IS INSUFFICIENT TO SATISFY THE LEGAL REQUIREMENTS OF THE V-CHIP PROVISION.

The stations and WGAE erroneously assert that the mere action of the industry in developing a ratings system is sufficient to satisfy the legal requirements of the V-chip provision.⁴⁴ However, to obviate the need for an advisory committee, the V-chip provision calls for more than mere action by the industry; rather, the FCC must find that the industry has voluntarily established an “acceptable” ratings system.⁴⁵

A review of the legislative history clearly shows that Congress intended a ratings system to specifically identify violent content and to provide parents with all descriptive information necessary to empower them to make effective programming choices for their children.⁴⁶ Thus, at minimum, a ratings system must meet these criteria in order to be “acceptable.”⁴⁷

As CME *et al.* demonstrated in its original Comments, the industry ratings system does not meet the “acceptability” standard because it fails to effectuate Congressional intent.⁴⁸ Twenty-three

⁴⁴ See, e.g., Letter from William M. Dunaway, General Manager, KAMR-TV (Amarillo, IN), to the FCC (April 3, 1997) (“The legislative history and the law makes clear that the Commission should act only if the industry failed to do so. The industry has acted; it developed and implemented a voluntary ratings system”); see also *WGAE Comments*, *supra* note 22, at 1 (“[T]he ... guidelines implemented by the broadcasting industry ... meet the requirements of the Telecommunications Act of 1996.”).

⁴⁵ See § 303(w) (stating that, if the industry fails to voluntarily establish an acceptable plan, the Commission must develop guidelines for rating programs based on recommendations from an advisory committee). For effectiveness of this subdivision, see § 551(b)(2), (e)(1), 110 Stat. at 140-41, 142.

⁴⁶ *Comments of CME et al.*, *supra* note 1, at 2-6.

⁴⁷ *Id.*

⁴⁸ See generally *id.* at 2-14.

Members of Congress, several of whom participated in the drafting of the V-chip provision and thus are most familiar with the provision's intent, have written to the FCC that, "the legal standard of acceptability that the proposed ratings system must meet can be found in the overall purpose of the statute" and that "the age-based ratings system proposed by the industry undermines the usefulness of the V-Chip to such an extent that the purposes of the statute cannot be fulfilled."⁴⁹ Thus, they conclude that "the Commission has no choice but to find the industry proposal 'unacceptable.'"⁵⁰

⁴⁹ *Letter from Markey et al., supra* note 28.

⁵⁰ *Id.* See also COMM. DAILY, *supra* note 4 (reporting that "822 [Comments] were filed against [the] industry system").

CONCLUSION

The vast majority of the Commenters in this proceeding, including a diverse group of organizations representing parents and viewers, strongly oppose the industry's age-based system and instead favor a content-descriptive system. While one Commenter implies that a content-descriptive system lacks the sophistication and quality of the industry system, in fact, a content-descriptive system, which identifies the type and intensity of content that a program actually does contain, is more sophisticated and of a higher quality than the industry system. Moreover, the purpose of content descriptive labeling is not to suppress particular types of programming, but to allow the public to make meaningful choices regarding the types of programming that they want themselves and their children to view. Finally, the industry's mere act of voluntarily developing a ratings system is not sufficient to satisfy the legal requirements of the V-chip provision. The legislative history clearly shows that the FCC must find the industry system "acceptable."

Accordingly, CME *et al.* reiterate that an "acceptable" ratings system must specifically identify violent content and provide parents with all descriptive information necessary to empower them to make effective programming choices for their children.⁵¹ If the industry fails to voluntarily modify its existing ratings system to meet these criteria, the FCC has no choice but to proceed with an advisory committee.

⁵¹ See generally *Comments of CME et al.*, *supra* note 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lori Anne Dolqueist", written over a horizontal line.

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